IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Misc. Writ Petition No. 1439 (S/S) of 2001
(Old No. 17819 of 1998).

Guddu Singh Rawat and three others .....Petitioners.

Versus

Director, Animal Husbandry, U.P.
Lucknow and four others ....Respondents.

.....

Hon'ble P.C.Verma, J.

This petition has been field by the petitioners challenging the impugned order cancelling their appointment dated 30.04.1998 passed by respondent No.4-Veterinary Officer, Angora Bakri Prajana Parikshertra, Gwaldam, Chamoli, contained in Annexure No.10 to the writ petition on the ground that no show cause notice or any opportunity of hearing was given to them.

The petitioners subsequently have amended the petition with further prayer to quash the impugned orders dated 25.6.1998 passed by respondent No.5-Deputy Director, Animal Husbandry, Garhwal Mandal, Pauri contained in Annexures Nos. 11,12, 13 and 14 to the writ petition, cancelling the appointments of the petitioners.

The petitioner No.4 was appointed on 12.12.1997 and petitioners Nos. 1, 2 & 3 were appointed on 28.02.1998. They all were appointed regularly on Class-IV posts in the department by respondent No.2-Additional Director, Animal Husbandry (Uttarakhand), Gopeshwar, Chamoli. The appointments of the petitioners were cancelled by the respondent No.2 on 30.04.1998 and subsequently by respondent No.5 on 25.06.1998.

A counter affidavit has been field by the respondents to the writ pertition wherein it has been stated that the appointment of the petitioners were made by the Additional Director, Animal Husbandry-respondent No.2 dehors the rules as only either daily wager or a resident of the same district can be appointed on Class-IV post. The appointing authority of Class-IV post was the Deputy Director, Animal Husbandry and not the Additional Director. The order of cancellation has been passed by the Deputy Director on the directions of the Director, Animal Husbandry.

A rejoinder affidavit has been field, in which it has been stated that petitioner-Raghuveer Puri had worked on daily wages from 01.08.1986 to 14.07.1991. Thereafter he worked as a substitute employee from 01.11.1992 to 15.12.1992, from 31.07.1993 to 27.08.1993 and from 13.03.1996 to 11.06.1996 in Angora Bakri Prajanan Parikshetra, Gwaldam, District-Chamoli. In support of this contention, a certificate has been issued by the Incharge of Angora Bakri Prajanan Parikshetra, Gwaldam, District-Chamoli, contained as Annexure No.1 to the rejoinder affidavit. A recommendation was made to the Deputy Director concerned for appointment of the petitioner as regular Class-IV employee against the vacant post in the said Angora Bakri Prajanan Parikshetra, Gwaldam, District-Chamoli. Petitioner Satish Kumar had worked as Sweeper in Angora Bakri Prajanan Parikshetra, Gwaldam, District-Chamoli on daily wages. A certificate in this respect has been annexed as Annexure No.3 to the rejoinder affidavit. It is further stated in the rejoinder affidavit that there were fifteen posts of Class-IV employees in Angora Bakri Prajanan Parikshetra, Gwaldam, District-Chamoli, out of which only eight employees were working and seven posts were vacant.

It has further been stated that after termination of the services of the petitioners three persons, namely, Rajesh Kumar, Rajendra Singh Rawat and Km.Rajeshwari have been appointed by respondent No.3 on Class-IV posts on daily wages in the month of May 1998.

The State Government has issued a Govt.Order dated 30.07.1986, by which the administrative powers have been delegated to be exercised in the hill districts by the Additional Director. Therefore, it is submitted that being Head of the Department the Additional Director was competent to make appointment on Class-IV posts. It is further submitted that since the power stood delegated by the State Government to the Additional Director to exercise the power of the Head of the Department in hill districts by the Additional Director, the Additional Director, Animal Husbandry (Hills) was also Head of the Department and his order could not have been cancelled by the Director Animal Husbandry, Lucknow as Head of the Department.

I find force in the contention of the learned counsel for the petitioners that since the power was delegated by the State Government to the Additional Director, Animal Husbandry (Hills) to exercise the power of the hill districts, he was competent to appoint the Class-IV employees and he was at par with the Head of the Department of the plains. Therefore, the Director, Animal Husbandry could not cancel the same. Furthermore, it is settled law the adhoc appointee cannot be replaced by adhoc appointee. After appointments of the petitioners further adhoc appointments were made which is not permissible under the law. No doubt the petitioners were appointed ton adhoc basis. Their services could not have been terminated merely at the whim of the Deputy Director,

Animal Husbandry without there being any valid reason as is evident that after the termination of the services of the petitioners the adhoc appointments have been made in Angora Bakri Prajanan Parikshetra, Gwaldam, District-Chamoli. Therefore, the action of the respondents terminating the services of the petitioners is arbitrary and is violative of Article 14 of the Constitution of India. Being violative of Article 14 it cannot be sustained in the eye of law.

The writ petition is allowed. The order of termination dated 25.06.1998 is hereby quashed. The petitioners shall be permitted to join and shall be allowed to work. They shall be considered for regular selection or regularisation according to the relevant rules. Since they had not worked after their termination, they will not be given salary till the date of this order but other consequential benefit on continuity of service to be given to them. No order as to costs.

(P.C. Verma,J.)

15.09.2003
P.Singh